

Amendment No. 1 to SB3854

Southerland  
Signature of Sponsor

**AMEND Senate Bill No. 3854\***

**House Bill No. 3842**

By deleting Section 1 and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 68-215-103, is amended by deleting subsection (13) and substituting instead the following:

(13) "Petroleum site" means any site or area where a petroleum underground storage tank is located or where a petroleum underground storage tank was located and the division has determined that there is a need for investigation or remediation of a release from that tank system, or that the receipt of additional information concerning those petroleum tanks requires the investigation of a suspected release from that tank system or reactivating remediation of a previously closed confirmed release on site.

AND FURTHER AMEND by deleting Section 2 and substituting instead the following:

SECTION 2. Tennessee Code Annotated, Section 68-215-103(17), is amended by adding the following as subdivision (C) and redesignating the remaining subdivision:

(C) Any person whose actions, whether intentional or negligent, directly cause the release of petroleum at a petroleum site.

AND FURTHER AMEND by deleting Section 6 and substituting instead the following:

SECTION 6. Tennessee Code Annotated, Section 68-215-115, is amended by deleting the section in its entirety and substituting instead the following:

(a) Whenever the commissioner expends money for the investigation, identification, containment or clean-up of a particular site under this part, the commissioner may issue an order to any responsible party to recover the amount expended or to assess that party's apportioned share of all costs expended or to be expended. It is not the intent of the legislature that this section be used to

recover reimbursed expenses paid to tank owners pursuant to § 68-215-111 for covered releases at fund eligible sites. Service of such an order shall be made by either personally serving the responsible party or by certified mail.

(b)

(1) In assessing a party's apportioned share, the commissioner may consider equitable factors, including, but not limited to, the following:

(A) Any monetary or other benefit accruing to each responsible party from the release of petroleum at the site;

(B) The culpability of each responsible party in regard to the release of petroleum at the site;

(C) Efforts of each responsible party to remediate the land, water, or other aspects of the site and any other affected property and to cooperate with the department in its work to investigate, contain or clean-up the release of petroleum at the site;

(D) Any expenditures required by the provisions of this part made by a responsible party shall be credited toward that party's share of the cost;

(E) The monetary benefit accruing to a property owner as a result of the clean-up of the release if, at the time of acquisition of the site, such owner knew or should have known that a petroleum release had occurred at the site; and

(F) The monetary benefit accruing to an owner as a result of the clean-up of the release if such owner was the owner at the time that a petroleum release had occurred at the site and knew or should have known of such release.

(2) Any person against whom an assessment is issued may secure a review of the propriety or amount of such assessment by filing with the commissioner a written petition setting forth the grounds and

reasons for the objection and asking for a hearing before the petroleum underground storage tank board. Any such assessment shall become final and not subject to review unless the person named therein files such a petition within thirty (30) days after it is received.

(3) In no event shall the total moneys recovered from the responsible party or parties exceed the total expenditure from the fund for such site, except that the commissioner may assess civil penalties as provided in § 68-215-121.

(4) The fund shall pay any portion of the total expenditure in excess of the aggregate amount of costs or expenditures apportioned pursuant to this section. All moneys recovered from the responsible parties pursuant to this section shall be deposited in the fund.